

REMARKS

General

1. Applicant notes that the Office Action "Status" indicates that it is responsive to the communication dated 13 October 2005 (filing date) and not to the latest response in the case. As some rejections appear to relate to amendments made by Applicant in his latest response, Applicant assumes that the status date mistake is inadvertent.
2. Applicant notes that most (if not all) of Applicant's arguments made in the latest response were not addressed by the Examiner. The relevant ones are repeated in this response.
3. The present invention discloses and claims unique features in voice messaging. The voice messaging may be done in a circuit based network that does not use, does not rely on and does not include an Internet protocol (IP), for example a PSTN or PLMN network. Such a network is referred to in herein as a "non-IP based" communication network. Among the unique features are included "*instant voice messaging (IVM)", "smart notification", "smart retrieval" and "instant retrieval*" of a *specific or particular message* and "*simultaneous storage and streaming*" of a *fragment* of an instant voice message. These features are clearly defined in (among other places) on page 9, line 32 to page 10, line 15:

The system enables direct access to a specific voice and/or fax and/or multi-media and/or unified message, without the need to listen to previous messages and/or to system greetings and/or to system operational instructions. After the user is notified that a certain message has been left for him/her, e.g. by a SMS notification that states: "you have a new voice (and/or fax) message from phone No.: +972 3 123456", the user can call a voice-mail system described herein while using the information received with the notification (in this case the number +972 3 123456). In order for the retrieval to be "instant", the notification needs to be "smart", for example a SMS with a "smart" Caller ID, e.g. 153 972 3 123456 1997. In this example, "153" is a prefix, which, when dialed, will tell the switch that this is an instant retrieval of an instant voice message. Therefore, the switch will forward this call to the IVM server, but with one difference to the "152" prefix in the accessing of the server above. "152" reflects a message creation session, while "153" reflects a message retrieval session. The IVM server will treat a call with a 153 prefix as a retrieval call. "1997" is an example of a suffix that can specify the particular message to be instantly retrieved. A combination of an initiating user number with the suffix can allow a shorter

suffix, because in such case the suffix will have to specify only the messages left by that particular initiating user, and not all messages left within the system.

and page 13 lines 6- 11:

When included, module 122 is operative to provide a "smart" notification (e.g. a "smart" Caller ID or SMS) to the target user. This notification may be used by the target user if the "push" operation failed, or in the case he/she accesses an already heard and previously saved. This notification provides the target user with instant access to the saved message. In the context of the present invention, "smart" means a numbering system that allows instant retrieval of the specific message.

To summarize - the present invention allows instant retrieval of a specific voice message (among a plurality of stored voice messages) from an IVM (not IVR) server by dialing a special "message" ID number (not the server number) that identifies the specific message. For example, if there are 10 stored messages in the IVM server, and the target user wants to retrieve message #5, he/she dials a number directly associated with message #5 (provided to him/her in the "smart notification") and immediately hears only message #5. The target user does not interact with the IVM server for any purpose other than the direct retrieval of the specific message. Therefore, an IVR server, which always has some interaction with the target user (such as for identification purposes) before relaying the stored message is not equivalent in its functionality to an "instant voice message" (IVM) server of the invention.

35 USC § 102 Rejections

Claims 27-32, 38-41 and 45-50 were rejected under § 35 U.S.C. 102(e) as being anticipated by Ruf et al. (US patent No. 7013155 B1) in view of Amin et al. (US patent No. 6418307). The rejection is respectfully traversed. Applicant submits that a § 35 U.S.C. 102 rejection cannot be made using a combination of references, but must be made using a single reference. Therefore, the rejection is in error. Since the OA also includes a 103(a) rejection of the same claims based on the same references, Applicant assumes this is an inadvertent mistake on the part of the Examiner. Applicant provides below the response to a previous Office Action dated 07/09/2009, which rejected the same claims using 35 U.S.C. 102(b) referencing Ruf et al. alone, In the previous response, Applicant noted that the Examiner has

not presented any arguments for the rejection of claims 38-41 and 45-50. Of these, only claim 45 is independent, and Applicant presented arguments for its patentability.

Claim 27 recites in step (a) by the target user, receiving a smart notification from the IVM server that said target user is provided with a particular instant voice message and in step (b) by said target user, directly accessing said particular message. Applicant respectfully submits that Ruf et al do not disclose "smart notifications" and instant voice mail servers in the sense clearly defined in the present invention, see above. The SMS notification sent by the IVR server in Ruf et al. includes information ("a message is stored in IVR voice server 110") and instructions, including the telephone number of the IVR voice server 110 and other information (col. 7, lines 35-44). The SMS message does not include a special number associated with the particular voice message, and is therefore not "smart" according to the definition in the present invention. A recipient (target user) in Ruf et al cannot directly access a particular message without first interacting (in at least one additional action) with an IVR server. This is true even if there is only one message (that one being therefore the only "particular" message).

Ruf's "instant retrieval" process is clearly described in his col. 7, lines 35-67 and in col. 8, lines 1-18, with reference to FIGS. 1 and 4 (the Examiner used part of this description in the rejection). In particular, the interaction between the recipient and the server includes dialing the IVR voice server (step 406), getting an answer from the IVR voice server which prompts the recipient into an action of providing or creating a password (step 408), entering the password (step 410) and hearing the message in step 414 only after the password is authenticated in step 412. Between the dialing by the recipient (step 406) and the retrieval of the message (step 414) there are 3 additional steps. In sharp contrast, the instant and direct retrieval claimed in claim 27 involves a single step - listening to the message after dialing the special number provided in the smart notification and identifying the particular message.

In conclusion - since Ruf et al. do not disclose all the limitations in claim 27, they cannot and do not anticipate claim 27 and any claim depending directly or indirectly therefrom. Therefore, Ruf et al do not anticipate claims 28-32. Moreover:

Regarding claim 28, Ruf et al do not disclose receiving a smart notification selected from the group consisting of a caller ID notification and a short message service (SMS) notification, for the reasons argued above re. claim 27.

Regarding claim 29, the Examiner mistakenly identifies the caller ID notification as including a notification comprising an access code to an IVM instant retrieval module, a unique identification code for said particular instant voice message, and a message type with the information included in the SMS message in Ruf et al., for reasons argued above re. claim 27. There is no "unique identification code for said particular instant voice message" anywhere in Ruf. et al.

Regarding claim 30 which includes all of the limitations of claims 27, 28 and 29, Ruf et al. do not disclose a message type selected from the group consisting of an instant voice message, a voice-mail, a multi-media service message and a unified message as related to a smart notification.

Regarding claim 31, Ruf et al. do not disclose direct accessing of a particular message, as argued re. claim 27 above. *Mutatis mutandis*, they do not disclose accessing said particular message while said message is being sent by an initiating user.

Regarding claim 32, Ruf et al. do not disclose direct accessing of a particular message, as argued re. claim 27 above. *Mutatis mutandis*, they do not disclose accessing said message after said message has been sent in its entirety by an initiating user.

As mentioned, the Examiner has not presented any arguments for the rejection of claims 38-41 and 45-50. Claims 38-41 depend directly from claim 27 and are not anticipated by Ruf et al. at least for the reasons argued by Applicant re. claim 27. Claim 45 is amended to recite a method which includes the steps of (a) receiving a smart short message service (SMS) notification of the instant voice message, the SMS including a specific number associated with the instant voice message; and (b) dialing directly the specific number to instantly retrieve the instant voice message. As argued re. claim 27, Ruf et al do not disclose smart notifications of any kind (including SMS) in the sense of the invention and do not disclose direct dialing of a specific number associated with the instant voice message. Therefore, Ruf et al. do not disclose all the limitations in amended claim 45, and cannot and do not anticipate amended claim 45 or any claim depending directly or indirectly therefrom, i.e. claims 46-50.

35 USC § 103 Rejections

Claims 1-4, 6-12, 19, 21-25, 33, 34, 36-37 and 43-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. (US 20030118160 A1) in view of Ball et al. (US 6240391 B1). The rejection is respectfully traversed.

Claim 1 has been previously amended to limit the communication network to a non-IP based communication network, i.e. to a circuit switched network. Both Holt et al. and Ball et al. disclose methods and systems that must always involve an Internet protocol and therefore must work in an IP-based communication network. The presence of IP-based processes and VoIP is essential. Their networks must always include an IP element and their methods do not work in a non-IP based communication network. Since independent claims 1, 21, 33 and 36 recite now the limitation of "non-IP based communication network", Applicant respectfully submits that Holt et al. in view of Ball et al. fail to disclose a key limitation of, and therefore cannot render unpatentable, claims 1, 21, 33 and 36 and any claims dependent therefrom, in particular claims 2-4, 6-12, 19, 22-25, 34, 37 and 43-44. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claims 1-4, 6-12, 19, 21-25, 33, 34, 36-37 and 43-44. More specifically:

Regarding claim 1, the combination of Holt et al. and Ball et al. fails to teach (a) an instant voice messaging (IVM) server operative to essentially simultaneously receive from an initiating user at least one voice message fragment and stream said at least one voice fragment to at least one target user in a non-IP based communication network.

Regarding claim 21, the combination of Holt et al. and Ball et al. fails to teach a method for relaying an instant voice message from an initiating user to at least one target user over a non-Internet protocol based communications network, comprising the steps of (a) at an instant voice messaging (IVM) server, receiving at least one voice message fragment from an initiating user; and (b) essentially simultaneously with said step of receiving, streaming said at least one voice fragment to at least one target user.

Regarding claim 33, the combination of Holt et al. and Ball et al. fails to teach an instant voice messaging (IVM) server positioned in a non-Internet protocol (IP) based communications network and comprising (a) a mechanism for receiving at least one voice message fragment from a first user and for essentially simultaneously streaming said at least

one voice message fragment to at least one second user; and (b) a communication mechanism to communicate with said first user and said at least one second user.

Regarding claim 36, the combination of Holt et al. and Ball et al. fails to teach in a non-IP based communications network a system for instant voice messaging comprising elements (a) (b) and (c) as recited above.

Applicant submits that since claims 1, 31, 33 and 36 are patentable over the combination of Holt et al and Ball et al, claims 2-4, 6-12, 19, 22-25, 34, 37 and 43-44 are similarly patentable, for the same reasons.

Claims 27-32, 38-41 and 45-50 were rejected under § 35 U.S.C. 103(a) as being as being unpatentable over Ruf et al. (US patent No. 7013155 B1) in view of Amin et al. (US patent No. 6418307). The rejection is respectfully traversed.

Re. claim 27, in contrast with the Examiner's position, and as Applicant has argued above, Ruf. et al do not teach smart notifications and instant voice mail servers in the sense clearly defined in the present invention. The Examiner does not state that Amin et al. teach smart notifications, and indeed they do not. Therefore, the combination of Ruf. et al. and Amin et al. fails to teach all of the claim limitations and specifically a key feature of claim 27. Consequently, the combination cannot and does not render claim 27, and any claim dependent directly or indirectly therefrom (28-32 and 38-41) unpatentable. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claims 27-32 and 38-41.

Re. claim 45, in contrast with the Examiner's position, and as Applicant has argued above, Ruf. et al do not teach smart notifications and instant voice mail servers in the sense clearly defined in the present invention. The Examiner does not state that Amin et al. teach smart notifications, and indeed they do not. Therefore, the combination of Ruf. et al. and Amin et al. fails to teach all of the claim limitations and specifically a key feature of claim 45. Consequently, the combination cannot and does not render claim 27, and any claim dependent directly or indirectly therefrom (46-50) unpatentable. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claim 45 and all claims depending therefrom. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claims 45-50.

Claims 5 and 13-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. (US 20030118160 A1) in view of Ball et al. (US 6240391 B1) as applied to claim 1 and further in view of Corliss (US 6771949). The rejection is respectfully traversed.

As acknowledged by the Examiner, the system disclosed by Corliss includes an Internet gateway in communication with the communication network. Corliss provides notifications (SMS) and voice messaging over the Internet via an Internet gateway. Therefore, Corliss's invention cannot work in a non-IP based communication network. The combination of Holt et al., Ball et al. and Corliss therefore fails to teach the limitation of "non-IP based communication network" as applied to claims 5 and 13-17. In addition, the combination of Holt et al., Ball et al. and Corliss fails to teach the limitation of "smart notification" as applied to claims 13, 14 and 15. Therefore, this combination cannot and does not render claims 5 and 13-17 unpatentable. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claims 5 and 13-17.

Claim 18 was rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. (US 20030118160 A1) in view of Ball et al. (US 6240391 B1) further in view of Corliss (US 6771949) as applied to claim 17 and further in view of Diacakis (US 20020120774 A1). The rejection is respectfully traversed. Diacakis does not teach the elements of claim 18 (which depends indirectly from claim 1) including the limitation of "non-IP based communication network" (which limitation is missing in the combination of Holt et al., Ball et all. and Corliss as argued above). Therefore, the combination of the four references fails to teach all the limitations of claim 18. Consequently, claim 18 cannot and is not rendered unpatentable by the combination of the four references. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claim 18.

Claim 20 was rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. (US 20030118160 A1) in view of Ball et al. (US 6240391 B1) as applied to claim 1 and further in view of Mc Zeal, Jr (US 6763226 B1). The rejection is respectfully traversed. McZeal, Jr does not teach the elements of claim 1 including the limitation of "non-IP based communication network" (which limitation is missing in the combination of Holt et al. and

Ball et al. as argued above). Therefore, the combination of Holt et al., Ball et al., and McZeal, Jr fails to teach all of the limitations of claim 20. Consequently, claim 20 cannot and is not rendered unpatentable by the combination of the three references. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claim 20.

Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. (US 20030118160 A1) in view of Ball et al. (US 6240391 B1) as applied to claim 23 and further in view of Grabelsky et al. (US 20040003046). The rejection is respectfully traversed. Applicant notes that Grabelsky et al. replaced Ruf et al. as the third reference in the combination vs. the previous rejection. Ruf et al. have been left in what seems to be a second 103(a) rejection of claim 26, identical to the one in the previous rejection. Grabelsky et al. disclose system and methods for providing instant services in an Internet Protocol network, in sharp contrast with the present invention. Applicant submits that they are not even in analogous art. *Mutatis mutandis*, Grabelsky et al. do not teach a non-Internet protocol (IP) based communications network and other elements recited in claim 21 and indirectly in claim 26. Therefore, the combination of Holt et al., Ball et al., and Grabelsky et al. fails to teach all of the limitations of claim 26, which depends indirectly from claim 21 and cannot and does not render claim 26 unpatentable. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claim 26.

Claim 42 was rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. (US 20030118160 A1) in view of Ball et al. (US 6240391 B1) as applied to claim 36 and further in view of Moore et al. (US 20030193961 A1). The rejection is respectfully traversed. Moore et al. do not teach the elements of claim 36. These elements are also not taught by the combination of Holt et al. and Ball et al. as argued above. Therefore, the combination of Holt et al., Ball et al., and Moore et al. fails to teach all of the limitations of claim 42, which depends directly from claim 36 and cannot and does not render claim 42 unpatentable. Applicant respectfully submits that the Examiner has failed to state a case of *prima facie* obviousness re. claim 42.

In view of the above amendments and remarks it is respectfully submitted that claims 1-50 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

~~עימפליסיטי בע"מ~~
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Applicant

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